

ABRIDGED SUMMARY OF CATEGORICAL USE OF FORCE INCIDENT AND FINDINGS BY THE LOS ANGELES BOARD OF POLICE COMMISSIONERS

OFFICER-INVOLVED SHOOTING – 078-09

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
West LA	11/05/09		

Officer(s) Involved in Use of Force	Length of Service
Officer A	4 years, 9 months

Reason for Police Contact

Officers observed a robbery in progress and were then confronted by an armed subject, which resulted in an officer involved shooting.

Subjects	Deceased ()	Wounded (X)	Non-Hit ()
Subject 1: Male, 21 years of age (Wounded).			
Subject 2: Male, 27 years of age.			
Subject 3: Male, 17 years of age.			

Board of Police Commissioners' Review

This is a brief summary designed only to enumerate salient points regarding this Categorical Use of Force incident and does not reflect the entirety of the extensive investigation by the Los Angeles Police Department (Department) or the deliberations by the Board of Police Commissioners (BOPC). In evaluating this matter, the BOPC considered the following: the complete Force Investigation Division investigation (including all of the transcribed statements of witnesses, pertinent suspect criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board recommendations; the report and recommendations of the Chief of Police; and the report and recommendations of the Inspector General. The Department Command Staff presented the matter to the Commission and made itself available for any inquiries by the Commission.

In accordance with state law divulging the identity of police officers in public reports is prohibited, so the masculine pronouns (he, his, and him) will be used in this report in situations where the referent could in actuality be either male or female.

The following incident was adjudicated by the BOPC on November 2, 2010.

Incident Summary

Officers A, B and C were in separate police vehicles that were unmarked. Officer C observed two males enter a supermarket, one wearing a hooded sweatshirt pulled tight

over his head and sunglasses and the second wearing sunglasses and a wig. Officer C advised Officers A and B of his observations. Five minutes later the two males walked out of the market and were not carrying any grocery bags.

Officer A observed the two males get into a vehicle occupied by two additional males. After circling the parking lot, the vehicle again parked and the two males re-entered the market. Again, the two males came out of the market without any grocery bags and got back into their vehicle. The vehicle drove out of the parking lot. Officers A and C followed the vehicle. Meanwhile, Officer B contacted store management who confirmed that the males had not committed a crime.

The vehicle drove to another supermarket and parked on a nearby side street. The male wearing the hooded sweatshirt and a previously unobserved male also wearing a hooded sweatshirt and sunglasses entered the market. Officer C formed the opinion that the males were about to commit a crime and broadcast a request for additional units. Officers D and E responded. Five minutes later, the two males left the market without any groceries. The vehicle then left the market and Officers A and C followed.

The vehicle parked on a side street near a gas station. Two of the vehicle's occupants got out and walked toward the gas station. Officer A parked in a position where he could observe the vehicle. Officer C parked in a position where he could observe the gas station.

Officer C observed two males walk into the gas station, walk behind the cash register and begin "grabbing stuff" while the store clerk was stood nearby. Based on the store clerk's reactions, Officer C formed the opinion that the gas station was being robbed. Officer C broadcast the robbery on two radio frequencies.

Officer A observed the two males run from the gas station and sprint toward their parked vehicle. Officer A turned on his vehicle's headlights and drove toward the parking lot's exit/entrance. According to Officer A, all four of the subjects—the two inside the vehicle and the two running toward the vehicle then fled on foot. Officer A broadcast the subjects' direction of travel.

Three of the subjects ran northbound and Officer A paralleled them in his vehicle. Officer A had difficulty maintaining visual contact with the subjects as they continued running. As such, Officer A exited the parking lot and drove into the street. Almost immediately upon entering the street, Subject 1 ran into the street and stopped 15-20 feet in front of Officer A. Officer A stopped his vehicle and, as he did so, observed Subject 1 holding a handgun. Subject 1 turned to his right, bladed his body, extended his arm out and pointed his gun at Officer A. Officer A, believing that Subject 1 was going to shoot him, drew his service pistol and fired six rounds at Subject 1 through the front windshield of his vehicle.

According to Officer A, after his sixth round, Subject 1 lowered his weapon and ran. Officer A broadcast a "shots fired" call.

Meanwhile, Officer C heard the gunshots, saw the subjects running, drove to a position to set up a perimeter and drew his service pistol.

Officer B heard Officer A's radio broadcast and started looking for Subject 1. Officer B observed Subject 1 running, exited his vehicle, and pursued him. Officer B drew his service pistol. Subject 1 ran through some bushes to a curb and sat down. Officer B ordered Subject 1 to put his hands up and he complied. Subject 1 was taken into custody without further incident.

Subject 1 had been struck with one round from Officer A and was transported by rescue ambulance to a nearby hospital for medical treatment. Subjects 2 and 3 were taken into custody following a search of the area. The fourth male was not located.

Los Angeles Board of Police Commissioners' Findings

The BOPC reviews each Categorical Use of Force incident based upon the totality of the circumstances, namely all of the facts, evidence, statements and all other pertinent material relating to the particular incident. In every case, the BOPC makes specific findings in three areas: Tactics of the involved officer(s); Drawing/Exhibiting/Holstering of a weapon by any involved officer(s); and the Use of Force by any involved officer(s). All incidents are evaluated to identify areas where involved officers can benefit from a tactical debriefing to improve their response to future tactical situations. This is an effort to ensure that all officers benefit from the critical analysis that is applied to each incident as it is reviewed by various levels within the Department and by the BOPC. Based on the BOPC's review of the instant case, the BOPC unanimously made the following findings.

A. Tactics

The BOPC found Officers A, B and C's tactics to warrant a tactical debrief.

B. Drawing and Exhibiting

The BOPC found Officers A, B and C's drawing to be in policy.

C. Use of Force

The BOPC found Officer A's use of force to be in policy.

Basis for Findings

A. Tactics

In its analysis of this incident, the BOPC identified the following tactical considerations:

In this instance, the investigation revealed that upon observing the robbery in progress, Officer A's initial broadcast was made on the tactical frequency. Based on the close

proximity of the additional surveillance detail officers, who were monitoring the tactical frequency, although unintentional, it was reasonable for Officer A to initially broadcast his observations on the tactical frequency; however, this does not mitigate the necessity to ensure that the proper broadcast is made on the base frequency as well. In conclusion, Officer A's actions did not substantially deviate from Department policy and procedure.

In this instance, Officer A was inside his vehicle with the intention of monitoring the subjects as they attempted to escape on foot. In doing so, Officer A elected to parallel the subjects as they fled. Generally, officers are discouraged from driving parallel to fleeing subjects based on the tactical disadvantage which may result. In this case, Officer A's intention was to maintain a visual contact on the subjects as they fled, and to direct the black and white vehicle to the subjects' location. Officer A's act of "paralleling" the subjects as they fled is consistent with a containment mode rather than an apprehension mode and was reasonable. In conclusion, Officer A's actions did not substantially deviate from Department policy and procedure.

In this instance, Officer A, the lone occupant of a vehicle, believed that a robbery had just occurred. As Officer A was driving in an attempt to monitor the subjects' direction of travel, Officer A was suddenly confronted by Subject 1 who pointed a handgun toward him. Although his intention was to monitor the subjects' actions until additional resources could arrive, Subject 1's actions caused Officer A to believe that Subject 1 was about to shoot him and Officer A was compelled to take action to defend his life. In conclusion, Officer A's actions did not substantially deviate from Department policy and procedure.

In this instance, Officer A was confronted by Subject 1 who was armed with a handgun. Officer A was the driver officer and observed Subject 1 turn toward him with a handgun pointed in his direction. In fear for his life, Officer A placed his right foot on the brake pedal of the police vehicle, while simultaneously drawing his service pistol with his right hand. Officer A, from a seated position inside his stopped vehicle, fired six rounds from his service pistol through the front windshield toward Subject 1. Here, Officer A did not have the luxury of time to exit his police vehicle prior to becoming involved in an officer involved shooting (OIS) with Subject 1, who posed an immediate and deadly threat. In conclusion, Officer A's actions did not substantially deviate from Department policy and procedure.

In this instance, as Subject 1 began running away from Officer A's vehicle, Officer A believed he used his vehicle radio to broadcast that shots had been fired and the direction of travel of Subject 1. The investigation revealed that this broadcast was not captured on the base radio frequency. By the nature of being alone, Officer A was forced to multi task as he monitored Subject 1's direction of travel, holstered his service pistol, attempted to initiate a radio broadcast and continued to follow Subject 1 who fled following the OIS. In conclusion, Officer A's actions did not substantially deviate from Department policy and procedure.

In this instance, shortly after the OIS occurred, Officer B, while operating without a partner officer, engaged in following Subject 1 with the intention of apprehending him rather than for containment purposes. Officer B was aware that Subject 1 was involved in a robbery and was potentially armed; however, he elected to holster his service pistol and follow Subject 1 through bushes. In conclusion, Officer A's actions did not substantially deviate from Department policy and procedure.

Drawing and Exhibiting

The BOPC noted that, in this instance, Officer A confronted Subject 1 who suddenly appeared in front of his vehicle and pointed a handgun toward him. In response, Officer A drew his service pistol.

The BOPC noted that, in this instance, Officer B attempted to detain a subject who he perceived was involved in a robbery. As Officer B exited his police vehicle and drew his service pistol, Subject 1 dove into some bushes. As a result, Officer B holstered his service pistol and followed Subject 1 through the bushes. Once Officer B was on the other side of the bushes, he observed Subject 1 sitting down on a street curb. Officer B drew his service pistol a second time and ordered Subject 1 into a prone position.

The BOPC noted that, in this instance, Officer C observed a robbery suspect running away from officers and drew his service weapon.

The BOPC determined that Officers A, B and C had sufficient information to believe that the situation may escalate to the point where deadly force may become necessary. Therefore, the BOPC found Officer A, B and C's drawing to be in policy.

B. Use of Force

The BOPC noted that, in this instance, Officer A was attempting to monitor multiple subjects who he believed were involved in a robbery. As Officer A was driving his unmarked police vehicle, Subject 1 appeared in front of his vehicle. Subject 1 turned toward Officer A while armed with a handgun. Believing that Subject 1 was about to shoot him, Officer A drew his service pistol and fired six consecutive rounds at Subject 1. Officer A reasonably believed Subject 1 was armed with a handgun and by his actions was about to shoot him. It was reasonable for Officer A to perceive that Subject 1 presented a significant risk of serious bodily injury or death. As such, it was reasonable for Officer A to utilize lethal force in defense of his own life and the BOPC found Officer A's use of force to be in policy.